



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शुक्रवार, २० अक्टूबर, १९६७/ २८ आश्विन, १८८६

GOVERNMENT OF HIMACHAL PRADESH ELECTION DEPARTMENT NOTIFICATION

Simla-2, the 8th September, 1967

No. 6-51/67-Elec.—The following Notification of Election Commission, India, dated 11th August, 1967, Sravana 20, 1889 (Saka), is published:—

ELECTION COMMISSION, INDIA NOTIFICATION

New Delhi, the 11th August, 1967/Sravana 20, 1889 (Saka)

No. 82/3 of 67/HP.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the Order, pronounced on the 14th July, 1967 by the Himachal Bench of the Delhi High Court in Election Petition No. 3 of 1967.

IN THE HIGH COURT OF DELHI HIMACHAL BENCH SIMLA

Appeal No. _____

Original

Decree

of from

Revision application No. _____

Appellate

Order

C.O.P. (Election) Petition No. 3 of 1967.

Date of Decision.....

Madan Lal Petitioner through Mr. J. N. Kaushal Advocate with
M/s M. R. Gupta and F. R. Gupta Advocate.

Versus

Hira Singh Pal Respondent through Mr. H. S. Thakur, Advocate;
for Approval and signature.

The Hon'ble Mr. Justice Hardayal Hardy.

The Hon'ble Mr. Justice.

1. Whether Reporters of local paper may be allowed to see
the Judgement?

Yes.

2. To be referred to the Reporter or Not?

Yes.

3. Whether their Lordships wish to see the fair copy of the
Judgement?

Coram:—

Hardayal Hardy. J:

This election petition under sections 81 and 83 of Representation of the People Act, 1951 (hereinafter to be referred to as the Act) was filed by Madan Lal resident of village Parhech, Post Office Ghanahatti, Tehsil Arki, District Mahasu whereby he challenged the election of the respondent as a member of the Himachal Pradesh Legislative Assembly from 9-Arki. Assembly Constituency during the last General Election on the ground that the nomination papers filed by the petitioner had been improperly rejected by the Returning Officer, Kasumpti.

The petitioner alleged that he was a candidate for a seat in the Himachal Pradesh Legislative Assembly from 9-Arki Assembly Constituency and that his name was entered as an elector at serial No. 504 in Part No. 12 of the Electoral Roll for the said Constituency. The respondent and a few others including Shri Hari Das were other candidates for the same seat. The nomination papers for election from the said Constituency were to be filed on 20-1-1967 before the District Magistrate Mahasu who was Returning Officer of the Constituency and the scrutiny of the nomination papers was to be held on the following day i.e. 21-1-1967 at the office of the Returning Officer at Kasumpti.

The petitioner further alleged that on 20-1-1967 he personally presented before the Returning Officer two nomination papers which were duly received and entered at serial Nos. 5 and 6. The petitioner's name was proposed by Shri Anant Ram and Shri Hari Nand both of whom were electors in the same Constituency and were present along with him at the time of presentation of the nomination papers. Both the nomination papers were however rejected by the Returning Officer on his own motion on 21-1-1967.

The petitioner alleged that the respondent polled 11,778 votes as against 4,000 and odd votes polled by the other candidate Shri Hari Das and was therefore declared elected as a member of the Legislative Assembly.

The petitioner further alleged that at the time of presentation of the nomination papers on 20-1-1967 the Returning Officer had fully satisfied himself about the identity of the petitioner and his proposers and had administered oath to the petitioner in the prescribed form. The petitioner contended that there was no defect of a substantial character in the nomination papers filed by him and their rejection by the Returning Officer was

therefore improper with the inevitable result that the election of the respondent as a returned candidate from 9-Arki Assembly Constituency of Himachal Pradesh was liable to be declared void.

The respondent in his written statement controverted the petitioner's allegations and stated that at the time of scrutiny the Returning Officer found that in the nomination paper which was entered at serial No. 5 (Ex. P-2) the name of the petitioner's proposer Shri Anant Ram was shown to have been entered as an elector at serial No. 380 in Part No. 13 of the Electoral Roll for the Constituency. But a comparison of the entry in the nomination paper with the relevant part of the Electoral Roll did not show the name of Shri Anant Ram at serial No. 380 at all. Likewise the name of the petitioner did not appear as an Elector at serial No. 504 in Part No. 2 of the Electoral Roll for the said Constituency although in the nomination paper entered at serial No. 6 (Ex. P-1) the name of the petitioner was shown to have been entered in the aforementioned part of the Electoral Roll. The respondent contended that since both the nomination papers filed by the petitioner were defective and the defect was of a substantial character in as much as it affected the qualification of the petitioner's proposer in the nomination paper (Ex. P-2) and the qualification of the petitioner himself in the other nomination paper (Ex. P-1) both the nomination papers were rightly rejected by the Returning Officer.

The respondent also controverted the petitioner's allegation that the Returning Officer was satisfied about the identity of the petitioner because he had administered oath to him and the petitioner had personally presented the nomination papers before him and contended that the allegation ran counter to what the Returning Officer had himself stated in his order.

The respondent also pleaded that Congress ticket for this Constituency had been granted to one Shri Hari Das who was a sitting Member of the Legislative Assembly and a Minister in the Himachal Pradesh Government. The petitioner had neither applied for the Congress ticket nor had he given the requisite undertaking accompanied by a security deposit of Rs. 500 that he would not contest election against a Congress candidate in the event of Congress ticket not being allotted to him. The respondent further alleged that the petitioner had been put forward by the Himachal Pradesh Congress Committee as a covering candidate only for Shri Hari Das who was official candidate of the party and that the petitioner had himself admitted this fact before the Returning Officer on 20-1-1967 when he presented his nomination papers. Later on when the nomination paper of Shri Hari Das was accepted, the nomination papers of the covering candidate were not seriously pressed. The respondent also pleaded that the petitioner deliberately wanted his nomination paper to be rejected and had for that very reason absented himself on the date of scrutiny. The respondent further pleaded that the petitioner had acquiesced in the rejection of his nomination paper and had no intention of challenging the order of rejection. It was only afterwards when Shri Hari Das the official Congress candidate, was defeated by the respondent at the polls that the petitioner was sent up by him to file the present election petition.

The petitioner in his replication controverted the pleas put forward by the respondent and reiterated the averments made by him in his petition. He denied that he wanted his nomination papers to be rejected or that he was a covering candidate on behalf of the Congress or that he did not intend to challenge the order of rejection of his nomination papers. He admitted that he was not present at the time of scrutiny but submitted that it was nonetheless incumbent upon the Returning Officer to have himself compared both the nomination papers and in any event his nomination papers could

not have been rejected because of the defect which was not at all of a substantial character.

On the pleadings of the parties the following two issues were framed by me. Learned counsel for the parties did not claim any other issues in the cases:—

- (1) Whether the nomination papers filed by the petitioner were improperly and illegally rejected by the Returning Officer and if so whether the election of the respondent is liable to be declared void on that ground;

- (2) Relief.

Issues 1 and 2:

In fact issue No. 1 is the only issue arising for consideration in this case as the decision of this issue will fully and effectually determine the entire controversy between the parties. The petitioner has examined himself as his only witness in support of his case as the other witness Prithi Singh, Naib-Tehsildar Election, District Mahasu, was examined without oath for producing certain records which were proved by the petitioner in his own statement.

There is not much dispute about the relevant facts which lie in a narrow compass. The petitioner as PW-2 stated that he had filed two sets of nomination papers (Exs. P-1 and P-2) on 20-1-1967. Both these papers were presented by him personally before the Returning Officer. He was then accompanied by his proposers in both the cases, namely Shri Anant Ram and Shri Hari Nand. On receipt of the nomination papers the Returning Officer satisfied himself about the identity of the petitioner and also about the identity of his proposers in respect of both the nomination papers. A subordinate of the Returning Officer compared the nomination papers with the Electoral Roll while the entries in the nomination papers were read by the Returning Officer himself. After reading the entries the Returning Officer administered oath to the petitioner in the form Ex. P-3 which was duly signed by the petitioner and attested by the Returning Officer. The petitioner did not appear before the Returning Officer at the time of the scrutiny on 21-1-67 nor did he hear from any body that he was wanted by the Returning Officer to make any corrections in his nomination papers. The petitioner further stated that his name was entered as an elector in Part No. 12 (Ex. P-4) of the Electoral Roll of 9-Arki Constituency at serial No. 504 under the head village Parhech and that the entry at serial No. 380 in Part No. 23 of the Electoral Roll (Ex. P-5) related to his proposer Shri Anant Ram in the nomination paper (Ex. P-2) while the entry at serial No. 799 in part No. 13 of the Electoral Roll related to his proposer Hari Nand in the nomination paper (Ex. P-1). He denied that he had made any statement before the Returning Officer that he was a substitute candidate of the Indian National Congress for Shri Hari Das. He maintained that he was a real contestant in the field and was not a covering candidate and stated that the understanding between him and Shri Hari Das was that he would continue to remain a candidate even after Shri Hari Das had filed his nomination papers. He also denied the suggestion that all the expenses relating to the election petition were being borne by Shri Hari Das and maintained that he would have still filed the petition if instead of the respondent Shri Hari Das had been elected to the Assembly.

He admitted that he was the Counting Agent of Shri Hari Das but denied that he was his Polling Agent.

In rebuttal the respondent stated that he was present when the petitioner filed his nomination papers and that he told the Returning Officer within his hearing that he was a covering candidate for Shri Hari Das. The petitioner

had with him at that time a copy of the Electoral Roll of his Constituency which he showed to the Returning Officer who asked the petitioner if he had compared his nomination papers with the Electoral Roll. The petitioner replied that he had done so.

The respondent further stated that none of the candidates or their agents had raised any objection to the validity of the nomination papers filed by the petitioner and that it was only in the course of verification of the nomination papers by the Returning Officer with the help of his Tehsildar that certain defects were discovered by them *suo motu* in the nomination papers filed by the petitioner. The Returning Officer thereupon asked Shri M. R. Gupta and other representatives of the Congress who were present there on behalf of the other candidates to produce the petitioner if he was available in order to enable him to rectify the defects and that since the petitioner did not turn up till after 3.00 P.M. his nomination papers were rejected by the Returning Officer. The respondent also stated that the petitioner was helping Shri Hari Das in his election and asserted that the election petition had been filed, against him by the petitioner at the instance of Shri Hari Das who had himself told the respondent that he had set up the petitioner to file the election petition with the object of harassing the respondent.

The above evidence clearly establishes that in the nomination paper (Ex. P-2) all the particulars relating to the petitioner including the Part No. of the Electoral Roll are correctly mentioned and that the only defect in the said nomination paper lies in the mistake about the Part No. of the Electoral Roll in which the name of the petitioner's proposer Shri Anant Ram is entered. Instead of mentioning Part No. 23 of the nomination paper mentions Part No. 13. The rest of the particulars relating to the proposer are also correct. There is also no doubt that Shri Anant Ram's name is entered as an elector at serial No. 380 in Part No. 23 of the Electoral Roll for 9-Arki Assembly Constituency.

The defect in the second nomination paper (Ex. P-1) lies only in this that the Part No. of the Electoral Roll in which the name of the petitioner is entered as an elector has been wrongly mentioned as Part No. 2 instead of Part No. 12. The rest of the particulars in the said nomination paper both with regard to the petitioner as well as his proposer Shri Hari Nand are correct in every respect. Now having regard to the sequence in which the nomination papers had been filed and entered in the records, the Returning Officer first took up the nomination paper Ex. P-2 and rejected it with the following order:—

“Rejected.

Shri Anant Ram proposer is not entered at serial No. 380 of Part 13 of the Electoral Roll of 9-Arki Assembly Constituency. Despite opportunity the entry has not been corrected.

Sd/- Ramesh Chand

21-1-1967 3.15 P.M.

Returning Officer

9-Arki Assembly Constituency.”

He then took up the second nomination paper Ex. P-1 and found that all the particulars relating to the petitioner as well as his proposer Shri Hari Nand in that nomination paper were correct except that the name of the petitioner was shown therein as an elector at serial No. 504 in Part 2 of the Electoral Roll instead of Part No. 12. There is no doubt that the petitioner's name is actually entered as an elector at serial No. 504 in Part

No. 12 of the Electoral Roll for the 9-Arki Assembly Constituency. This nomination paper was then rejected by the Returning Officer with the following order:—

“Rejected.

The name of the candidate is not entered at serial No. 504 of Part 2 of Arki Assembly Constituency Electoral Roll. Despite opportunity he has not cared to correct the entry.

Sd/- Romesh Chand

21-1-67 3.15 P.M.

Returning Officer,

9-Arki Assembly Constituency.”

The aforesaid orders were followed by a detailed order (Ex. P-7) wherein the Returning Officer observed that from a comparison with the final copy of the Electoral Roll for 9-Arki Constituency it was discovered that at serial No. 380 of Part No. 13 Shrimati Phullu wife of Shri Nirjal Singh had been entered whereas in the nomination paper (Ex. P-2) the name of Shri Anant Ram proposer had been shown to be entered at serial No. 383. As regards the nomination paper (Ex. P-1) the Returning Officer observed that the candidate had shown his name to be entered at serial No. 504 of Part No. 2 of the Electoral Roll whereas from a comparison with the aforesaid entry in the final copy of the Electoral Roll, the name of one Shrimati Durshanu wife of Shri Ghaniya Ram had been entered at the aforesaid serial No. of Part No. 2 of the Electoral Roll. The Returning Officer also observed that at the time of the scrutiny neither Shri Madan Lal nor his proposer or Election Agent nor any one else on his behalf was present so that he could be given an opportunity for correcting these entries. The Returning Officer further observed that “this candidate while presenting his nomination papers claimed to be the substitute candidate of the Indian National Congress who have put up Shri Hari Das as their only candidate.” He went on to say that in view of the aforesaid circumstances it could not be ascertained whether Shri Madan Lal was an elector in any Assembly Constituency of Himachal Pradesh or that his proposer Shri Anant Ram is an elector in 9-Arki Assembly Constituency. He further stated that since Shri Madan Lal had not turned up till 15 minutes past 3.00 P.M. although he was given opportunity to make necessary correction there was no alternative but to reject both these nomination papers as the candidate did not seem to be interested in correcting these entries and filing proper and valid nomination papers.

Before discussing the effect of the evidence and the implications of the orders passed by the Returning Officer it is necessary to deal with a few preliminary submissions that have been made by the learned counsel for the respondent with a great deal emphasis and emotion. He argued that the petitioner being a covering candidate for Shri Hari Das the official candidate of the Congress party was not a serious contestant in the field. He had therefore deliberately filed defective nomination papers in the hope of their being rejected by the Returning Officer with a view to utilizing the order of rejection as a ground for challenging the election of the returned candidate in the event of Shri Hari Das's defeat at the polls. He next argued that the petitioner had acquiesced in and accepted the rejection of his nomination papers till after the result of the election was declared and Shri Hari Das was defeated by the respondent. It was only then that the petitioner filed the present petition which was instigated and was being financed by Shri Hari Das.

Apart from the fact that beyond the respondent's own statement and a passing reference in the order of the Returning Officer (Ex. P-7) that the

petitioner was merely a "substitute" or a "covering" candidate for Shri Hari Das there is no satisfactory evidence to prove this allegation, it appears to me that assuming the allegation to be true, it has hardly any bearing on the question which I am called upon to decide in this case. The practice apart, Election law as such recognizes only a candidate at the election and is neither concerned with nor does it recognize a "covering" or a "substitute" candidate. In the eye of law every person whose name is entered as an "elector" in the relevant "electoral roll" and who is otherwise qualified to be a member of the Legislative body for which he puts himself forward as a candidate at the election and who files a nomination paper is a candidate. It may be that after filing a nomination paper he may withdraw from the contest but so long as his nomination paper has not been rejected or he has not himself withdrawn it, he remains a candidate and if his nomination paper is improperly or illegally rejected, whatever be his object and whatever be his motives, he has the right to call in question the election of the returned candidate, no matter who prompts or instigates him and from where he gets the means to do so.

Coming now to the real matter in controversy between the parties, a large number of decided cases have been cited before me by the learned counsel for the parties. In my opinion however, the question arising for determination in this case neither calls for any elaborate argument nor does it require a reference to many decided cases. It is not disputed that both the nomination papers (Ex. P-2 and P-1) were taken by the Returning Officer for scrutiny one after the other in quick succession. As a matter of fact the time mentioned by him in both the orders rejecting the nomination papers, is 3.15 P.M. While scrutinising the nomination paper Ex. P-2 the Returning Officer must have noticed that the candidate's name was shown as an elector in Part No. 12 of the Electoral Roll and that the mistake lay only in respect of the petitioner's proposer Shri Anant Ram whose name though shown in the nomination paper as an elector at serial No. 380 in Part No. 13 of the Electoral Roll, was in fact not so entered there. There was thus no doubt about the identity of the candidate at least, as all the particulars relating to the petitioner were found to be correct on a comparison of the entries contained in the nomination papers with those contained in the relevant part of the Electoral Roll. When the Returning Officer thereafter took up the second nomination paper Ex. P-1 he must have discovered that the name and address and the serial No. of the candidate were all the same as in the previously scrutinized nomination paper Ex. P. 2. The only difference between the two nomination papers however was that instead of Part No. 12 as mentioned in Ex. P-2 the Part No. of the Electoral Roll in Ex. P-1 was entered as 2. The petitioner as a candidate had personally appeared and presented his nomination papers before him on the previous day and he had personally administered oath to him as required under the Law. He could not have therefore had any doubt in his mind about the identity of the candidate. That the Returning Officer had in reality no such doubt in his mind is further apparent from the fact that he regarded the mistake in the nomination papers as one which could be easily corrected by the petitioner because he was prepared to have such corrections made and with the object in view, he even gave time to the petitioner till 3.00 P.M. It is only after the petitioner failed to turn up that the Returning Officer felt that he had no alternative but to reject both the nomination papers because as observed by him in his order "the candidate does not seem to be interested in correcting those entries and filing proper valid nomination papers." Now if the Returning Officer had any doubt in his mind either about the identity of the petitioner as a candidate or about the

nature of the defect in the nomination papers, there was no reason why he should have postponed his decision in order to afford an opportunity to the petitioner to correct the mistake. Considering the re-action of the Returning Officer, after he had scrutinized the nomination papers filed by the petitioner, I have no hesitation in coming to the conclusion that the Returning Officer did not regard the defect in either of the two nomination papers as of a substantial character. He was sure in his mind that the error in both the nomination papers was merely of a clerical nature and that in any case the defect in Ex. P-1 was purely accidental and clerical in nature, otherwise there is no reason why the petitioner who had correctly filled in the Part No. of the Electoral Roll in his nomination paper Ex. P.2 should have made the mistake of mentioning a wrong Part No. of electoral roll in his nomination paper Ex. P-1. The omission to add figure 1 after figure 2 in Ex. P-1 was obviously an accidental slip. It seems to me that it is precisely with the object of meeting a situation of the type presented by this case that the following proviso to sub-section (4) of section 33 of the Act was added by the Representation of the People (Amendment) Act, 1956:—

“Provided that no misnomer or inaccurate description or clerical, technical or printing error in regard to the name of the candidate or his proposer or any other person, or in regard to any place, mentioned in the electoral roll or the nomination paper and no clerical, technical or printing error in regard to the electoral roll numbers of any such person in the electoral roll or the nomination paper, shall affect the full operation of the electoral roll or the nomination paper with respect to such persons or place in any case where the description in regard to the name of the person or place is such as to be commonly understood and the returning officer shall permit any such misnomer or inaccurate description or clerical, technical or printing error to be corrected and where necessary, direct that any such misnomer, inaccurate description, clerical, technical or printing error in the electoral roll or in the nomination paper shall be overlooked.”

Sub-section (4) of section 36 of the Act then provides that the Returning Officer shall not reject any nomination paper on the ground of defect which is not of a substantial character.

It is true that if the candidate and the proposer both claim to be electors in the same constituency and it is found that the name of the candidate or his proposer is not entered as an elector in the Electoral Roll of that Constituency the candidate is obviously not qualified for being chosen to fill the seat and there is a failure to comply with the provisions of section 33 of the Act. In such a case the nomination paper has got to be rejected by the Returning Officer as a defect of that nature is indubitably a defect of a substantial character. It is only if the defect is not of substantial character and the proviso to sub-section (4) of section 33 affords a clear indication about the type of defects which are not to be regarded as defects of a substantial character, that the rejection of the nomination paper can be held to be improper.

Now on the facts of this case there can be no doubt that the rejection of the nomination paper by the Returning Officer is wholly improper.

It was urged by the learned counsel for the respondent that the name of the petitioner admittedly did not appear at serial No. 504 in Part No. 2 of the Electoral Roll nor did the name of his proposer Shri Anant Ram appear at serial No. 380 in Part No. 13 of the Electoral Roll and if the petitioner and his proposer were both absent at the time of scrutiny the nomination papers certainly did not comply with the requirements of section 33 of the Act and in as much as the defects related to the qualification of the

candidate and his proposer the Returning Officer had no other alternative than to reject the nomination paper. It was the duty of the petitioner to have been personally present at the time of scrutiny or to have made suitable arrangement for his representation before the Returning Officer. If he failed to do so he had only to thank himself as the law did not cast any duty on the Returning Officer to go through the various parts of the Electoral Roll in order to find out whether the names of the petitioner and his proposer were entered as electors in the constituency. The argument in my opinion completely overlooks the provisions relating to the duties of the Returning Officer. According to sub-section (4) of section 33 of the Act it is the duty of the Returning Officer, on presentation of the nomination paper, to satisfy himself that the names and the particulars of the candidate and his proposer as entered in the nomination paper are the same as those entered in the Electoral Roll. In the present case the Returning Officer either completely failed to perform his duty when the nomination papers of the petitioner were presented to him on 20-1-1967 or performed it in a perfunctory manner. According to the evidence, the petitioner had brought with him the Electoral Roll of the Constituency which consisted of 24 Parts. If the Returning Officer had only cared to glance at the two nomination papers filed by the petitioner, he would have immediately discovered that the petitioner had mentioned the correct Part No. of the Electoral Roll in one nomination paper while he had made a mistake in mentioning the Part No. of the Electoral Roll in the other nomination paper. As the petitioner's proposers Shri Anant Ram and Shri Hari Nand were also with him the mistake about the Part number of the Electoral Roll in relation to Shri Anant Ram would have also been easily discovered by a mere reference to the Electoral Roll there and then. The Returning Officer however completely failed to perform his duty as according to the evidence of the respondent, although the petitioner had shown the Electoral Roll to the Returning Officer in his presence, all that the Returning Officer did was to ask the petitioner if he had compared his nomination papers with the Electoral Roll and the petitioner replied that he had done so.

According to the proviso to sub-section (4) of section 33 of the Act the proper stage for correcting an error of the type disclosed in the nomination papers Exs. P-2 and P-1 was when the nomination paper were presented to the Returning Officer. There is no provision for correcting mistakes in the nomination paper at the stage of scrutiny under section 36. At that stage the Returning Officer has either to accept or to reject the nomination paper. It seems to me that the Returning Officer in the present case realised on the one hand that he had failed to perform his duty on the previous day and on the other hand, he was of the opinion that the defect was only of a technical nature. It was in this state of mind that he decided to give an opportunity to the petitioner to make necessary corrections at the stage of the scrutiny. The only legitimate inference to be drawn from these facts is that the defect in his opinion was not of a substantial character.

Learned counsel for the respondent also argued that if the petitioner was not present at the time of the scrutiny and the nomination papers were defective, no matter what the nature of those defect was, the Returning Officer could not have legally accepted a defective nomination paper. There is no force in the argument of the learned counsel. The power of the Returning Officer is to reject a nomination paper only if it suffers from any defect of a substantial character. The question as to whether the defect is of a substantial character or not does not depend upon whether the petitioner or his representative is present before the Returning Officer at the time of scrutiny.

The question has to be determined with reference to the character of the defect itself. This can be determined by the Returning Officer himself and if he fails to do so then the matter has to be examined by this Court when the election of the returned candidate is called in question by an election petition filed according to law because the grounds on which a nomination paper is accepted or rejected by the Returning Officer are not conclusive of the matter. Having regard to the facts of the present case I have no doubt in my mind that the defect in the nomination papers in this case, at any rate, so far as the nomination paper Ex. P-1 was concerned, is not of a substantial character and therefore there was no justification at all for rejecting the same.

In this connection one other circumstance may be noticed. The respondent himself has stated that the petitioner's nomination papers were rejected by the Returning Officer without any objection having been raised thereto by any of the candidates. Although sub-section (2) of section 36 allows the Returning Officer to reject a nomination paper on his own motion, the circumstance that none of the candidates had raised any objection, is indicative of the fact that none of them had any doubt about the identity of the petitioner otherwise there is no reason why they should not have objected to the nomination papers.

I may now refer to some of the decided cases that have been cited before me. I do so more out of respect from the learned counsel who have bestowed so much industry and care on the presentation of their respective cases than because it is necessary to refer to any such cases.

The first case relied upon by the learned counsel for the petitioner is a judgement of the Supreme Court in *Karnail Singh v. Election Tribunal Hissar and others* (10 E.L.R. 189). In that case the nomination paper of Sher Singh was rejected by the Returning Officer on the ground that column No. 8 in the nomination form had not been duly filled up. The Election Tribunal held that the nomination paper was wrongly rejected. The only defect pointed out was.....

THAT the name of the sub-division was not mentioned in the form but on the evidence it was made clear that there was no difficulty in identifying the candidate and the candidate himself had pointed out to the Returning Officer the entry of his name in the Electoral Roll. On appeal to the Supreme Court their Lordships held that the defect in these circumstances was a technical one and the Tribunal was perfectly right in holding that the defect was not of a substantial character and that the nomination paper should not have been rejected. The Supreme Court judgement was rendered before the amendment of sub-section (4) of section 36 by the Representation of the People (Amendment) Act, 27 of 1956. The said sub-section before its amendment read as under:—

“The Returning Officer shall not reject any nomination paper on the ground of any technical defect which is not of a substantial character”

By the Amending Act, the word “technical” was omitted thereby enlarging the scope of the sub-section.

Learned counsel for the respondent tried to distinguish that case and argued that the candidate Sher Singh whose nomination paper was rejected was himself present at the time of scrutiny of papers and had pointed out to the Returning Officer the entry of his name in the Electoral Roll while the petitioner in the present case had deliberately kept away and therefore the Returning Officer had no other alternative than to reject the nomination paper. He also argued that in that case there was evidence which made it quite clear that there was no difficulty in identifying the candidate whereas

in the present case there was no such evidence on the record. It is no doubt true that the candidate in the present case was not present at the time of scrutiny but in view of the fact that he was present before the Returning Officer on 20-1-1967 and the nomination paper (Ex. P-2) had already been scrutinised by the Returning Officer who was evidently satisfied that so far as the candidate was concerned the entries in the said nomination paper fully answered the description of the candidate in the relevant Part of the Electoral Roll, he could not therefore have had any difficulty in identifying the candidate even though the candidate himself was not present before him at the time of scrutiny. In fact that nomination paper Ex. P-2 spoke more eloquently about the identity of the candidate than what the petitioner himself could have done. The ratio *decidendi* of the Supreme Court's decision lies in their Lordships holding firstly, that as a result of the defect in the nomination paper there should be no difficulty in identifying the candidate; and secondly, that if there is no difficulty in identifying the candidate the defect cannot be treated as substantial. On both these points their Lordships held against the rejection of the nomination paper. In the present case the evidence discloses that there was no difficulty in identifying the candidate and since it was so the defect in omitting to mention the correct Part of the Electoral Roll could not be regarded as defect of a substantial character.

Dahu Sao v. Ranglal Chaudhary and others (A.I.R. 1960 Patna 371) is the next case cited by Mr. J. N. Kaushal learned counsel for the petitioner. The dispute in that case related to a by-election held in December, 1958 to fill up a vacant seat from Dhanbad Constituency in the Bihar Legislative Assembly. The Returning Officer rejected the nomination papers of the appellant Dahu Sao and one Shri Rupan Prasad on the ground that the proposer had written the word "Bihar" instead of 'Dhanbad Assembly Constituency'. Before the Tribunal, however, an additional ground of attack was urged justifying the rejection of the nomination papers of the appellant. The additional ground of attack was that columns 2 and 5 of the nomination paper which were meant to be filled up by the proposer were not duly filled up in any of the four nomination papers filed by the appellant. The defects as pointed out were that neither the name of the Constituency in the Electoral Roll in which the names of the proposer and the candidate were to be found nor the number of the Part of the Electoral Roll was mentioned. Columns 2 and 5 were meant for furnishing electoral numbers of the proposer and of the candidate respectively. Rule 2(1) (b) of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956 which were then in force ran as under:—

"Electoral roll number" of a person means,

- (i) the serial number of the entry in the electoral roll in respect of that person;
- (ii) the serial number of the part of the electoral roll in which such entry occurs; and
- (iii) the name of the constituency to which the electoral roll relates."

At the foot in both the Hindi and English forms it was clearly and specifically mentioned by giving an illustration as to with what particulars and in what manner those two columns, namely, columns 2 and 5 were to be filled up. In none of the four nomination papers filled on behalf of the appellant, the part number of the electoral roll was mentioned either in column 2 or in column 5. But at the same time it was conceded on all hands that the electoral roll of the Dhanbad constituency where the names of the proposers and of the candidate were entered was not given any part number. It was divided

municipal ward-wise and ward numbers were given. It was held that in spite of these defects the nomination of the appellant had been improperly rejected. The case went up in appeal to the Supreme Court where the decision of the Patna High Court was affirmed by their Lordships who held:—

“Undoubtedly therefore there was a defect in these two columns. Apparently, the constituency was the same, viz. Dhanbad, as will appear from the address given in column 4. No part number could be given as the electoral roll in this particular case was not numbered by Parts. The question is whether in these circumstances this defect can be called a defect of a substantial character. In this connection we cannot ignore the provisions of S. 33(4) of the Act, which casts a duty on the returning officer to satisfy himself that the names and elector roll numbers of the candidate and his proposer as entered in the nomination paper are the same as those entered in the electoral roll and gives him the power to permit the removal of any defect in this connection. The returning officer does not seem to have noted this defect in the form for if he had done so he would have given an opportunity to the proposer to make the corrections. It is true that the failure of the returning officer to give this opportunity for correction does not mean that the defect can be ignored, if it is of a substantial character. But considering the purpose for which the electoral roll numbers are given, it seems that the returning officer found no difficulty in checking that the proposer as well as the candidate was a voter on the electoral rolls. The High Court in this connection referred to the evidence of the respondent who stated that when his nomination paper was taken up for scrutiny, the returning officer compared the names in the nomination paper with those in the electoral roll. It seems therefore that in this case the returning officer found no difficulty in tracing the names of the proposer and the candidate in the electoral rolls and that is why no objection was raised before him as to the defect in columns 2 and 5. In the circumstances it must be held that the defect was of an un-substantial character and would not result in rejection of the nomination paper” (*Rangilal vs. Dahu* Sao AIR 1962 SC 1248).

It is pertinent to mention here that in arriving at their decision their Lordships referred to *Karnail Singh's* case and observed that the principle of that case applied to the case before their Lordships also for there was no doubt as in *Karnail Singh's* case that the returning officer had found no difficulty in identifying the proposer as well as the candidate and expressed their agreement with the High Court that in the circumstances of that case the defects in columns 2 and 5 were not of a substantial character and the rejection of the nomination paper could not be upheld.

The next case relied upon by the petitioner is *Rosamma Punnose V. B. Bala Krishnan Nair and another* (14 ELR 210), a case from the High Court of Kerala. The candidate whose nomination paper was rejected by the returning officer in that case was an elector of a different constituency although he was eligible for election. His two proposers were, however, electors in the constituency from which the candidate sought election to the State Legislative Assembly and were therefore qualified to act as proposers. The serial number of one of the proposers was 118 in Part 115 of the Electoral Roll and that of the other was 927 in Part 111, but in furnishing electoral roll number of the proposers in the nomination papers, while their serial numbers in the respective parts and the name of the constituency were correctly entered, the

serial numbers of the parts in the roll were wrongly entered as 60 instead of 115 and 111 respectively in both papers. The mistake arose because the part in question was No. 60 in the roll before the constituencies were reconstituted, and number 60 was not properly defaced in the printed copies. There was no dispute as to the identity or eligibility of the proposers, but the nomination papers were rejected by the returning officer. A large number of cases were cited before the High Court. Learned Judges however relying upon the decision of the Supreme Court in Karnail Singh's case held that in the circumstances of the case the mistake in the nomination papers was not a defect of a substantial nature within section 36(4) of the Act and the nomination papers were wrongly rejected.

The last case relied upon by the learned counsel for the petitioner is *Rattan Anmol Singh and another v. Ch. Atma Ram and others* (AIR 1954 SC 510). The contest in that case was for two seats in the Punjab Legislative Assembly. The constituency to which the dispute related was a double member constituency, one seat being general and the other reserved for the scheduled caste. Atma Ram was a candidate for the reserved seat but his nomination was rejected by the Returning Officer at the stage of scrutiny and so he was unable to contest the election. The successful candidates were Rattan Anmol Singh for the general seat and Ram Parkash for the reserved. Atma Ram filed an election petition challenging the election of both the successful candidates. The Election Tribunal decided in his favour by a majority of two to one and declared the whole election void. Against the decision of the Tribunal Rattan Anmol Singh and Ram Parkash filed an appeal before the Supreme Court.

According to the rules as then in force, each nomination paper was required to be subscribed by a proposer and a seconder. Atma Ram put in four papers. In each case the proposer and seconder were illiterate and so they placed a thumb-mark instead of a signature. But these thumb-marks were not "attested". The Returning Officer held that without "attestation" the nomination papers were invalid and so rejected them. The question raised before their Lordships was whether the Returning Officer was right in holding that the nomination papers were invalid. A subsidiary question was also raised before their Lordships, namely, whether assuming "attestation" to be necessary under the rules an omission to obtain the required "attestation" amounted to a technical defect and of an unsubstantial character which the Returning Officer was bound to disregard under section 36(4) of Representation of the People Act, 1951. Their Lordships held that the nomination papers had been rightly rejected in that case. But the importance of the decision lies in the following observation of their Lordships on which strong reliance has been placed by Mr. J. N. Kaushal, learned counsel for the petitioner:—

"The only jurisdiction of Returning Officer has at the scrutiny stage is to see whether the nominations are in order and to hear and decide objections. He cannot at that stage remedy essential defects or permit them to be remedied. *It is true he is not to reject any nomination paper on the ground of any technical defect which is not of a substantial character but he cannot remedy the defect. He must leave it as it is. If is technical and unsubstantial it will not matter. If it is not, it cannot set right*".

Applying this decision to this case, the argument of the learned counsel is that the absence of the petitioner at the stage of scrutiny can have absolutely no bearing on the validity of the order passed by the Returning Officer rejecting his nomination papers because even if he were present on that occasion the Returning Officer could not have permitted him to remedy the defects if they were essential defects as the Returning Officer had no jurisdiction to permit such defects to be remedied at that stage; but since the Returning Officer was

satisfied that the defects were not of an essential character and was of the view that they could be easily corrected, it was not open to him to reject the nomination papers on the ground that there were certain mistakes about the part Nos. of the Electoral Roll and that he should have ignored the same as if the defects were technical and unsubstantial and therefore did not matter at all.

Mr. H. S. Thakur, learned counsel for the respondent, has on the other hand placed strong reliance on the observations in the Judgement of the Supreme Court in *Babu Ram v. Smt. Prasanni* (AIR 1959 Supreme Court 93) where Gajendragadkar J. (as he then was) observed:—

“Whenever the statute requires a particular act to be done in a particular manner and also lays down that failure to comply with the said requirement leads to a specific consequence it would be difficult to accept the argument that the failure to comply with the said requirement should lead to any other consequence. There is no doubt that the essential object of the scrutiny of nomination papers is that the returning officer should be satisfied that the candidate who is not an elector in the constituency in question, is in fact an elector of a different constituency. The satisfaction of the returning officer is thus a matter of substance in these proceedings; section 33(5) requires the candidate to supply the prescribed copy and S. 36 (2) (b) provides that on his failure to comply with the said requirement his nomination paper is liable to be rejected. In other words, this is a case where the statute requires the candidate to produce the prescribed evidence and provides a penalty for his failure to do so. If the candidate fails to produce the relevant copy, the consequence prescribed by S. 36(2)(b) must inevitably follow.”

The judgement as is clear from the facts of the case, related to the failure of the candidate to establish to the satisfaction of the Returning Officer that although he was not an elector in the constituency in question he was in fact an elector of a different constituency which fact he could only establish as required by section 33(5) of the Act by supplying the prescribed copy of the Electoral Roll. He having failed to discharge the burden that lay on him could not complain that his nomination paper was wrongly rejected. The reason behind the rule is only too obvious. The Returning Officer is required under the rules to have before him a copy of the Electoral Roll for the Constituency to which the nomination papers relate. He is not supposed to have in his possession the Electoral Roll relating to a different constituency. As the essential object of the rules is the satisfaction of the Returning Officer about the eligibility of the candidate for election which in a sense, is the same thing as the identity of the candidate, the onus of establishing that although his name is not entered in the Electoral Roll of the constituency in question, his name is in fact entered in the Electoral Roll of a different constituency and as such he is eligible for election, naturally lies on the candidate himself. The inquiry which the Returning Officer is required to hold at the stage of scrutiny being of a summary nature, the Act provides that the only way in which the candidate can establish this fact is that he should produce a copy of the Electoral Roll of the constituency in which his name appears as an elector. A specific mode of proof having been provided by the Act, it is obvious that the failure to adopt that mode of proof should have the consequence laid down by the Act. It will be seen that the ratio of the judgement, instead of helping the respondent supports the petitioner in so far as it emphasizes that the essential object of the provision is the satisfaction of the Returning Officer about the identity of the candidate and the substantial nature of the defect.

The next case relied upon by Mr. Thakur is *Brijendralal Gupta and another v. Jwalaprasad and others* (AIR 1960 Supreme Court 1049). The question raised in that case was whether the failure of a candidate to specify his age as required by the prescribed form of the nomination paper, amounted to a defect of a substantial character under section 36(4) of the Representation of the People Act, 1951 and whether the High Court of Madhya Pradesh was right in holding that the returning officer ought to have held an inquiry under section 36(2)(a) and satisfied himself whether or not the candidate was eligible to stand for the election. Their Lordships held:—

“If the nomination paper of respondent No. 5 did not comply with the provisions of S. 33 the case fell squarely under S. 36 (2)(b) and the only question which can arise in such a case is whether or not the defect arising from the failure to comply with the provisions of S. 33 is of a substantial character or not. If the defect is not of a substantial character the Returning Officer shall not reject the nomination paper on the ground of the said defects if, on the other hand, the defect is of a substantial character the returning officer has to reject the nomination paper on the ground of the said defect. That is the effect of the provisions of S. 36(2)(b) and (4) read together. An enquiry which is necessary under S. 36 (2)(a) may and can be held for instance in cases where the nomination paper shows the age of the candidate as above 25, but an objection has been raised that in fact he is below 25, and as such incompetent to stand for election under Art. 173 of the Constitution; in other words, the impugned nomination has complied with the provisions of S. 33 and as such does not fall under S. 36 (2)(b) at all, nevertheless the validity of the nomination can be challenged on the ground that in fact Art. 173 is not complied with. Cases falling under this class must be distinguished from cases falling under S. 36 (2)(b). In the latter class of cases the failure to comply with the provisions of S. 33 being established there is not scope for any enquiry under S.36 (2)(a). Once the alleged non-compliance is proved the defective nomination falls to be accepted or rejected according as the defect is of an unsubstantial or of a substantial character. Therefore, it is not right to hold that even after the Returning Officer was satisfied that the omission to specify his age showed that nomination paper of respondent 5 had not complied with the provisions of S. 33, he should still have held an enquiry under S. 36(2)(a). Non-compliance with the provisions of S. 33 itself would justify the rejection of the nomination paper provided of course that the defect arising from the non-compliance in question is of a substantial character.”

Particular stress was laid by Mr. Thakur on the last sentence in the above cited passage. The ratio of the decision, however, lies in the conclusion reached by their Lordships that the failure to specify the age in the nomination paper amounted to a defect of a substantial character under section 36(4) of the Act, as *prima facie* eligibility of the person to stand as a candidate which depended under Article 173 of the Constitution *inter-alia* on his having completed the age of 25 years, was an important matter and it was in respect of such an important matter that the prescribed form required the candidate to make the declaration, it would, their Lordships observed, be reasonable to hold that the failure to make a declaration on such an important matter was a defect of an unsubstantial character. Comparing this case with their earlier decision in *Karnail Singh's* case their Lordships observed:—

“It appears that in that case the nomination paper of Sher Singh had been rejected on the ground that column 8 in the nomination form was not duly filled up. The defect to which objection was taken was that the name of the sub-division had not been stated under the relevant columns, though on evidence. It was quite clear that there was no defect in identifying the candidate and that the candidate himself pointed out to the Returning Officer the entry of his name in the electoral roll and this Court held that the defect in question was purely technical and that the Tribunal was perfectly right in holding the nomination paper had been improperly rejected. It is difficult to see how this decision can assist the respondent at all. As we have already pointed out the omission to make a declaration about the age is, in our opinion, an omission to comply with the substantial requirement prescribed by the form and it cannot be compared with the omission with which this Court was concerned in the case of Karnail Singh, 10, ELR 189(SC).” The judgement is therefore of no assistance to the respondent and on the other hand lends support to the contention urged to behalf of the petitioner that what really matters is whether the defect in the nomination paper was of a substantial character and was one that made it difficult to identify the candidates.

Sunder Lal Chechani v. Sampat Lal (AIR 1963 Rajasthan 226) was the order case relied by Mr. Thakur. It was urged by the learned counsel that the facts in that case were almost similar to the facts in the present case. What had happened in that case was that in the nomination paper filed by the candidate the name of the constituency in which he was enrolled as the elector was not given by him nor was there anything in the nomination paper from which the name of that constituency could have been inferred. The nomination paper was, therefore, rejected by the Returning Officer and his decision was upheld by the Election Tribunal and finally on appeal by the High Court of Rajasthan. While dismissing the appeal the learned Judges of the High Court referred to several decisions some of which have already been noticed by me and observed:—

“Applying this test to the nomination paper of Shri Kesar Singh we find that neither the returning officer was or could be satisfied from the particulars given in it that the candidate was enrolled as an elector in some assembly constituency in the State, nor were the particulars sufficient to enable the other candidates to identify Kesar Singh and make enquiries as to whether he possessed the required qualifications or suffered from any disqualifications. As has already been mentioned above, in column No. 5 of the nomination paper, the full postal address of the candidate was not given. Only the name of the post office serving his village was specified but the name of the village was not given. The candidate could not therefore be identified even by the address given in column No. 5. The nomination paper thus suffered from a defect of a substantial character.”

The judgement no doubt supports the contention put forward on behalf of the respondent but a close examination of the facts of that case shows that the candidate had not only omitted to mention in his nomination paper the name of the constituency in which he was enrolled as an elector, but he had also given his full postal address as he had not even mentioned the village in which he was residing. All that was mentioned was the name of the post office and the railway station through which the mail was to be carried although one of the columns in the nomination form required full postal address of the candidate to be mentioned therein. It was found on evidence that all the railway stations next to Mavli junction did not lie within the Mavli constituency in question. The evidence further showed that the name of the post office could

also not help the Returning Officer in locating the name of the candidate in any electoral roll. It is in these circumstances that the order of rejection of nomination papers was upheld by the learned Judges of the High Court. The decision no doubt is correct on the facts of that case but it is scarcely an authority which can be of much assistance in the decision of the present case. As was recognised by the learned Judges of Rajasthan High Court the main purpose of section 33 and 36 of the Act is that the Returning Officer should be able to check readily that the proposer and the candidate fulfil the prescribed requirements and that sufficient particulars of the candidate may be available to the other candidates to find out the identity of the candidate so that they may be able to ascertain whether he fulfills qualifications laid down by law and does not suffer from any disqualifications. If both these objects are fulfilled the nomination paper cannot be said to suffer from a defect of a substantial character. In the present case, the Returning Officer had two nomination papers of the petitioner before him. In the first nomination paper the full and correct particulars of the candidate had been mentioned and there was not difficulty in coming to the conclusions that the candidate fulfilled the prescribed requirements as the entries in the nomination paper fully answered the description of the candidate as given in the relevant part of the electoral roll mentioned therein. The other candidates who were present at the time of scrutiny were also fully aware of the particulars of the petitioner and they had no doubt either about the identity of the candidate or about his qualifications and that is why no objection was raised by anyone as has been admitted by the respondent himself to the validity of the petitioner's nomination papers.

Netra v. Lakshman Prasad and another (AIR 1960 Madhya Pradesh 368) is yet another case relied upon by Mr. Thakur. There were separate electoral rolls in that case for each electoral area the electoral areas being numbered consecutively and the names in each electoral area were also numbered consecutively with a separate series of numbers beginning with the number 1 for each electoral area. Accordingly unless (i) the name of the constituency and (ii) the serial number of the Part of the electoral roll was known, it was not possible for the Returning Officer merely from the serial number of the Electoral roll in respect of a proposer or a candidate to identify unless he scanned the Electoral rolls of all the constituencies or if the name of the constituency was given, unless he examined all the Parts of the said electoral rolls. One of the candidates, had filed a nomination paper in which he had only entered his electoral roll number while the other candidate had likewise mentioned his own electoral roll number as well as the electoral roll number of his proposer. It was on these facts that it was held that as in the nomination papers filed by both the candidates only the electoral roll number were given and not the serial number of the Part of the electoral roll in which they occurred the defect was of a substantial character. The learned Judges were however careful to observe that they did not propose to examine the decisions cited at the bar because each case depended upon its own facts and was not a guide to the case before them. It is apparent that in the present case it was not at all necessary for the returning officer to examine the electoral rolls of all the constituencies. All that he was required to do was to examine Parts 2 and 12 of the electoral rolls, both of which were before him and since the serial number of the petitioner in both these Parts was stated to be the same, he could readily check that the actual part number of the electoral roll in which the petitioner's name was in fact entered was 12 and that Part had been clearly mentioned in the nomination paper Exhibit P-2. The mention of Part No. 2 against the same serial No. 504 in Exhibit P-1

was, therefore, an obvious clerical error involving defect of a wholly un-substantial character.

The last case relied upon by Mr. Thakur is *Balji v. Murarka Radheyshayam Ramkumar* (AIR 1965 Rajasthan 23). The judgement was based on Supreme Court's decision in *Brijendralal Gupta and another v. Jwalaprasad and others* (AIR 1960 S.C. 1049). The ratio of the decision is to be found in the following paragraph of the judgement:—

“Now we have it from the Returning Officer Shri Rajagopal R.W. 2 that the electoral roll of Nawalgarh Assembly Constituency consist of 90 parts, and in each Part, the serial number of voter starts with No. 1. We are prepared to accept that where an electoral roll is not divided into parts, the number of the part may not be given, and that the omission to mention the particular part would not be a defect of a substantial nature. But where the electoral roll is divided into a number of parts, and such part consists of hundreds of persons, as in the case before us, and where each part begins with the serial number of the voters ther contained as No. 1, we cannot but hold that the number of the part is a matter of substance, because if the number of the part is not given, the Returning Officer would be put to the almost impossible task of wading through all the 90 parts, or as many more as may be in a given case to hunt out where the name of the proposer (or a candidate as the case may be) happens to be enrolled.”

In the instant case the Returning Officer had only to examine Parts 12, 2, 13 and 23 with reference to the serial number of the electors given therein in order to find out if the candidate's and the proposers' names were entered in the electoral roll of the constituency. He had not to wade through all the 90 parts to hunt out whether the name of the proposer or of the candidate happened to be enrolled. The case is, therefore, clearly distinguishable from the present case.

It would be seen that the ultimate decision in all the case cited by both sides is in conformity with the principle laid down by their Lordships of the Supreme Court in *Karnail Singh's* case. Applying the test laid down in that case, I have no hesitation in coming to the conclusion that both the nomination papers of the petitioner were improperly and illegally rejected by the Returning Officer. In any event the rejection of the nomination paper Exhibit P-1 is totally indefensible.

The necessary consequence of my finding is that the election of the respondent is declared to be void under section 100(1)(c) of the Representation of the People Act, 1951. I further direct that the substance of the decision be communicated to the Election Commission, New Delhi and the Speaker of the Himachal Pradesh Legislative Assembly forthwith and an authenticated copy of the judgement should be sent to the Election Commission, New Delhi, as required by section 103 of the Act. The petitioner shall also have his costs against the respondent. The counsel's fee is assessed at Rs. 300.

Before parting with the case I cannot help remarking that responsibility for this unfortunate result rests almost entirely on the Returning Officer. The respondent had won the election with a heavy margin of votes against his rival candidate. If the Returning Officer had not treated his duties with the supercilious indifference evinced by him in this case and had bestowed even a modicum of attention when the nomination papers were presented before him on 20-1-1967 in examining the papers as he was required to do under section 33(4) of the Act the mistake discovered by him at the time of scrutiny on 21-1-1967 could have been easily corrected and the present unfortunate

result avoided. That would have left the door open for a fair contest at the polls among all the validly nominated candidates. As it is, there will have to be a fresh election involving so much expense, inconvenience and trouble all round.

Sd/- HARDAYAL HARDEY.

By order,
K. S. RAJAGOPALAN,
Secretary to the Election Commission, India.

By order,
D. R. DHAMIJA,
Chief Electoral Officer.

